

FILED
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10/17/2018 2:08 pm
For Online Publication Only
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JAMES TOMASSI,

Petitioner,

-against-

VINCENT DEMARCO,

Respondent.

-----X
AZRACK, District Judge:

On August 21, 2018, incarcerated *pro se* plaintiff James Tomassi (“plaintiff”) filed a petition pursuant to 28 U.S.C. §2241 in this Court but did not remit the filing fee or file an application to proceed *in forma pauperis*. Accordingly, by Notice of Deficiency also dated August 21, 2018 (“Notice”), plaintiff was instructed to either remit the filing fee or complete and return the enclosed application to proceed *in forma pauperis* within fourteen (14) days from the date of the Notice. The Notice warned plaintiff that his failure to timely comply may result in the dismissal of his petition for failure to prosecute. (*See* Notice, Docket Entry No. 2.) The Notice was mailed to plaintiff at his address of record and has not been returned to the Court. To date, plaintiff has not responded to the Notice nor has he otherwise communicated with the Court other than to apprise the Court of his inmate number by letter dated September 4, 2018. Accordingly, the petition is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that *in forma pauperis* status for the purpose of an appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). The

Clerk of the Court is directed to mail a copy of this order to the plaintiff at his last known address and to mark this case closed.

SO ORDERED.

Dated: October 17, 2018
Central Islip, New York

/s/ (JMA)
Joan M. Azrack
United States District Judge